

REMARKS

This is in response to the non-final Official Action currently outstanding with respect to the above-identified application.

Claims 1-24 were present in this application as of the time of the issuance of the currently outstanding Official Action. Claims 1-21 currently stand rejected by the Examiner. Claim 22 stands allowed (but nevertheless has been amended above to delete an extraneous “)”) appearing therein). By the foregoing Amendment Claims 1, 4, 5 and 15 have been amended so as to substitute the phraseology “differences between peaks of measurement values and valleys of measurement values” for the phraseology objected to by the Examiner, namely “P-V values”. Otherwise, no Claims are amended, canceled, added or withdrawn. Accordingly, upon the entry of the foregoing Amendment, Claims 1-24 as hereinabove amended will constitute the claims under active prosecution in this application.

The claims of this application are reproduced above including appropriate status identifiers and showing the Amendments sought as required by the Rules.

More specifically, it is noted that in the currently outstanding Official Action, the Examiner has:

1. Acknowledged Applicants' claim for foreign priority under 35 USC §119(a)-(d), and reconfirm that the required certified copies of the priority document have been received by the United States Patent and Trademark Office.
2. Confirmed that the drawings filed on 7 December 2007 have been accepted.
3. Acknowledged Applicants' Information Disclosure Statements as filed with the present application and on 28 December 2004, 10 February 2005 and 20 December 2005 and confirmed his consideration of the art listed therein.
4. Provided Applicants with a Notice of References Cited (Form PTO-892)

5. Objected to the drawings on the basis that Figure 18 should be labeled as “PRIOR ART” because only that which is old is depicted therein – **By this Amendment, Applicants are requesting that the Sheet of formal drawing containing Figure 18 be amended so as to contain the legend “PRIOR ART” and respectfully submit that upon the entry of the substitute sheet of drawing provided herewith the Examiner’s currently outstanding objection to the drawing will be overcome.**
6. Objected to Claims 1-15 on the basis of the use of the phraseology “P-V values” utilized therein – **As mentioned above, Applicant by the foregoing Amendment has amended so as to substitute the phraseology “differences between peaks of measurement values and valleys of measurement values” for the phraseology objected to by the Examiner, namely “P-V values”. This amendment is supported in the present specification at page 68, line 24 to Page 69, line 1, and is respectfully submitted to overcome the Examiner’s outstanding objection to Claims 1-15. The basis for this belief may be further understood by reference to the attached drawing wherein it is shown that in a case of an aberration distribution as therein depicted the peak is 0.4λ and the valley is -0.2λ such that the P-V value is $0.4\lambda - (-0.2\lambda) = 0.6\lambda$.**
7. Indicated that Claims 1-15 would be allowable if the objection discussed in item 6 above were to be overcome (which Applicants respectfully submit that it has by virtue of the foregoing Amendment as discussed above).
8. Rejected Claims 16-20 and 22-23 under 35 USC §102(e) as being anticipated by Ichimura (US Patent No. 6,826,133)
9. Rejected Claims 21 and 24 under 35 USC 103(a) as being unpatentable over the Ichimura reference.

Further comment in these Remarks regarding items 1-7 above is not considered to be necessary in these Remarks.

Applicants appreciate the Examiner's thorough examination of the subject application and respectfully request entry of the foregoing Amendment and reconsideration of the subject application based on the foregoing amendments and the following remarks.

It is to be noted here that the Ichimura reference upon which the Examiner relies in the currently outstanding Official Action corresponds to Japanese Unexamined Patent Application No. Tokukai 2000-11388 that is described as prior art in the present specification. Furthermore, the problems inherent in the Ichimura reference are discussed in the present specification at Page 4, lines 2 to 16 as follows:

Tokukai 2000-11388, a conventional art, has a problem that it is not applicable to discs without prepit signals. In addition, the prepit signal is stored, for example, in sector marks which in general give such a small amount of data that the areas may not be sufficient to enable accurate observation of the magnitude of the correction of the spherical aberration. Moreover, in cases of write once, rewriteable, and other writeable optical discs, if the data derived from the prepit signal is applied to correction for storage areas, accurate correction is likely to be impossible because of, strictly speaking, different storage mechanisms: In prepit areas, recording utilizes the intensity of reflection which decreases when light diffracts in pit sections. In storage areas, recording utilizes the presence/absence of an increase in absorption by storage sections (tint signal).

Furthermore, Applicants respectfully submit that the Ichimura reference discussed above does not teach, disclose or suggest "the step of producing the second correction target under an occurrence condition of the minimum first correction target and changing a magnitude of the second correction target" as currently claimed in the present application.

Applicants' basis for the foregoing assertion is that the Ichimura reference relied upon by the Examiner only describes that one of a distance between lenses and an offset value (focus bias value) is changed therein. Applicants respectfully submit that the Ichimura reference does not teach, disclose or suggest that a focus bias value is changed with a fixed distance between lenses and then that the distance between the lenses is changed with the fixed focus bias value.

Furthermore, Applicants respectfully submit that in the present invention, data recorded for reference is data recorded before performing focus offset and spherical aberration. In the Ichimura reference, on the other hand, a prepit is utilized as a reference. Applicants respectfully submit that this means that the teachings of the Ichimura reference cannot be applied to a disc that does not include a prepit. Accordingly, Applicants respectfully submit that the teachings, disclosure and/or suggestions of the Ichimura reference are contrary to the teachings of the present invention in the present specification.

Finally, Applicants respectfully submit that the present invention can correct both a spherical aberration and a focus error thereby improving the quality of a reproduction signal. Applicants respectfully submit that this should be compared with the conventional art wherein only one of the spherical aberration and the focus error can be corrected at any given time thereby clearly and distinctly indicating the novel and nonobvious improvements provided by the present invention over the art relied upon by the Examiner.

Hence, Applicants respectfully submit that neither the Ichimura reference relied upon by the Examiner fails to teach, disclose or suggest all of the features of the present invention specifically set forth in claims 16 to 20 and 22-23 of this application, and consequently cannot be fairly said to render claims 21 and 24 unpatentable given the dependency relationships with allowable claims. Consequently, Applicants respectfully submit that the Ichimura reference is insufficient to teach, disclose or suggest to one of ordinary skill in the art the improvements achieved by the present invention.

Accordingly, Applicants respectfully submit that the present invention should be recognized to have novelty and to be nonobvious over the references currently at issue. Entry of the foregoing Amendment, reconsideration and allowance of this application as hereinabove amended, therefore, are respectfully requested in response to this communication.

Applicants believe that additional fees are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: September 12, 2008



SIGNATURE OF PRACTITIONER

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